

SENATE BILL REPORT

SB 5167

As Reported by Senate Committee On:
Human Services & Corrections, February 10, 2009

Title: An act relating to allowing a certificate of discharge to be issued when an existing order excludes or prohibits an offender from having contact with a specified person or business, or coming within a set distance of any specified location.

Brief Description: Allowing a certificate of discharge to be issued when an existing order excludes or prohibits an offender from having contact with a specified person or business, or coming within a set distance of any specified location.

Sponsors: Senators Regala, Kline and Hargrove.

Brief History:

Committee Activity: Human Services & Corrections: 1/30/09, 2/10/09 [DPS].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 5167 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland, Carrell and Kauffman.

Staff: Jennifer Strus (786-7316)

Background: A criminal sentence may include a term of incarceration; a term of supervision in the community (community custody); an obligation to pay legal financial obligations; or a combination of incarceration, community custody, and legal financial obligations. When an offender has completed all the requirements of his or her sentence, including the payment of any and all legal financial obligations, the offender may obtain a certificate of discharge.

A certificate of discharge has the effect of restoring all civil rights lost by operation of law, except the right to bear arms, as the result of conviction. Among the civil rights restored include the right to vote, serve on a jury, and hold public office. The certificate of discharge also terminates the sentencing court's jurisdiction to enforce requirements of the sentence.

Unless otherwise ordered by the court, a certificate of discharge does not terminate the

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offender's obligation to comply with an order that excludes or prohibits the offender from having contact with a specified person or coming within a set distance of any specified location that was contained in the judgment and sentence.

Summary of Bill (Recommended Substitute): An eligible offender may petition the court to issue a certificate of discharge and separate no-contact order if the no-contact order is contained in the judgment and sentence. The sentencing court must issue a separate no-contact order under a new civil cause number for the remaining term and conditions as in the no-contact order that was contained in the judgment and sentence. A separately issued no-contact order may be enforced under chapter 26.50 RCW.

EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (Recommended Substitute): Clarifies that if the no-contact order is contained in the judgment and sentence, the eligible offender may petition the court to have a separate no-contact order issued under a new civil cause number. The new separate no-contact order must be issued for the same term and conditions as the original no-contact order contained in the judgment and sentence.

An emergency clause was added.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony on Original Bill: PRO: When a person convicted of an offense has served his or her time and paid his or her debt to society, that person should be able to regain the civil rights the person lost, including the right to vote. This bill would allow people to regain their civil rights and allow the court to continue to protect the individual when a no-contact order has been entered. A person convicted of a crime and ordered to perform community service, pay restitution, and seek therapy would not recover the right to vote if there is an outstanding no contact order even if the person has always abided by it. The lack of a certificate of discharge affects people's ability to obtain housing and employment. When people convicted of crimes have paid their debt to society, they should be issued a certificate of discharge so they can get on with their lives.

OTHER: When a certificate of discharge is issued, it terminates the court's ability to enforce any part of the sentence, including a no contact order. The agreed upon amendment would allow the no contact order to continue even if it is contained in the judgment and sentence.

Persons Testifying: PRO: Michael Hanbey, Washington Association of Criminal Defense Attorneys; Molly Matter, citizen.

OTHER: Tom McBride, Washington Association of Prosecuting Attorneys.